

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE APPLICATION OF APOSTOLOS
MANGOURAS TO CONDUCT DISCOVERY FOR
USE IN A FOREIGN PROCEEDING PURSUANT
TO 28 U.S.C. 1782

17-mc-172(PKC)

ORDER

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CASTEL, District Judge.

I have reviewed sixteen documents submitted for in camera review on March 2, 2018 by the Cushing Respondents. They are responsive to subpoenas issued by Apostolos Mangouras pursuant to 28 U.S.C. § 1782. Counsel for Mangouras has responded to the submission, of course, without seeing the content of the documents.

Cushing argues that anything beyond facts and data obtained during underwater inspections is attorney work product and need not be produced. Rule 26(a)(2)(B)(ii) implicitly excludes from the scope of work-product protection, in the case of a testifying expert witness, “the facts and data considered by the witness in forming” opinions the witness intends to express. In this case, such information is not merely the data collected during underwater inspections but data concerning the collection, including equipment used to collect data and applicable protocols. With this principle in mind, the Court concludes as follows:

Document 241. Numbered paragraphs 1 and 2 may be redacted, as well as the third and fourth from the last paragraphs of the letter.

The balance shall be produced.

Document 242. The document shall be produced.

Document 243. The document shall be produced.

Document 245. The document need not be produced.

Document 461. The document shall be produced.

Document 462. The document shall be produced.

Document 463. Produce the first paragraph and numbered paragraphs 1, 2 and 3. The balance may be redacted.

Document 464. The redaction is appropriate.

Document 467. The document need not be produced.

Document 468. The document shall be produced.

Document 469. The first paragraph and the first six words of the second paragraph may be redacted. The balance of the document shall be produced.

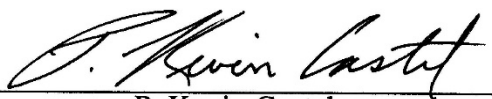
Document 470. The document shall be produced.

Document 471. The document shall be produced.

Document 472. The document need not be produced.

Document 474. The document need not be produced.

SO ORDERED.



P. Kevin Castel
United States District Judge

Dated: New York, New York
March 14, 2018